

E & R AMENDMENTS TO LB 94

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Sections 1 to 18 of this act shall be known
4 and may be cited as the Private Onsite Wastewater Treatment System
5 Contractors Certification and System Registration Act.

6 Sec. 2. The purposes of the Private Onsite Wastewater
7 Treatment System Contractors Certification and System Registration
8 Act are to:

9 (1) Protect the air, water, and land of the state through
10 the certification and regulation of private onsite wastewater
11 treatment system professionals in Nebraska;

12 (2) Require certified professionals for siting, layout,
13 construction, reconstruction, alteration, modification, repair,
14 inspection, and pumping of private onsite wastewater treatment
15 systems and require that all siting, layout, construction,
16 reconstruction, alteration, modification, repair, inspection, or
17 pumping of any private onsite wastewater treatment system after the
18 effective date of this act be done by certified professionals in
19 accordance with the act and rules and regulations adopted under the
20 act;

21 (3) Provide for the registration of all private onsite
22 wastewater treatment systems constructed, reconstructed, altered,
23 or modified after the effective date of this act;

24 (4) Protect the health and general welfare of the

1 citizens of Nebraska; and

2 (5) Protect the air, water, and land of the state from
3 potential pollution by providing for proper siting, layout,
4 construction, reconstruction, alteration, modification, repair, and
5 pumping of private onsite wastewater treatment systems.

6 Sec. 3. For purposes of the Private Onsite Wastewater
7 Treatment System Contractors Certification and System Registration
8 Act, the definitions in sections 4 to 9 of this act shall be used.

9 Sec. 4. Advisory committee means the Private Onsite
10 Wastewater Treatment System Advisory Committee created in section
11 10 of this act.

12 Sec. 5. Certified professional means a private onsite
13 wastewater treatment system professional certified under the
14 Private Onsite Wastewater Treatment System Contractors
15 Certification and System Registration Act to perform the tasks for
16 which the certification has been issued.

17 Sec. 6. Council means the Environmental Quality Council.

18 Sec. 7. Department means the Department of Environmental
19 Quality.

20 Sec. 8. Director means the Director of Environmental
21 Quality.

22 Sec. 9. Private onsite wastewater treatment system means
23 any system of piping, treatment devices, or other appurtenances
24 that convey, store, treat, or dispose of domestic or industrial
25 wastewater on the property where it originates or on nearby
26 property under the control of the user, which system is not
27 connected to a public sewer system.

1 Sec. 10. The Private Onsite Wastewater Treatment System
2 Advisory Committee is created. The advisory committee shall be
3 composed of the following eleven members:

4 (1) Seven members appointed by the director as follows:

5 (a) Five private onsite wastewater treatment system
6 professionals; and

7 (b) Two registered environmental health specialists or
8 officials representing local public health departments which have
9 established programs for regulating private onsite wastewater
10 treatment systems;

11 (2) The Director of Health and Human Services Regulation
12 and Licensure or his or her designated representative;

13 (3) The Director of Environmental Quality or his or her
14 designated representative; and

15 (4) One representative with experience in soils and
16 geology and one representative with experience in biological
17 engineering, both of whom shall be designated by the vice
18 chancellor of the University of Nebraska Institute of Agriculture
19 and Natural Resources.

20 Members shall be reimbursed for their actual and
21 necessary expenses as provided in sections 81-1174 to 81-1177. The
22 department shall provide administrative support for the advisory
23 committee.

24 Sec. 11. The advisory committee shall:

25 (1) Meet not less often than annually as determined by
26 the director. The director may call special meetings of the
27 advisory committee;

1 (2) Advise the department on proposed rules and
2 regulations relating to the Private Onsite Wastewater Treatment
3 System Contractors Certification and System Registration Act;

4 (3) Advise the department on rules and regulations for
5 the siting, layout, operation, and maintenance of private onsite
6 wastewater treatment systems; and

7 (4) Advise the department on the administration of the
8 act as requested by the director.

9 Sec. 12. The council shall adopt and promulgate rules
10 and regulations to carry out the Private Onsite Wastewater
11 Treatment System Contractors Certification and System Registration
12 Act. Such rules and regulations shall provide for, but not be
13 limited to:

14 (1) Certification of private onsite wastewater treatment
15 system professionals;

16 (2) Establishing categories for such professionals to be
17 certified under the act;

18 (3) Temporary, provisional, and hardship certifications;

19 (4) Examination requirements for certification;

20 (5) Continuing education requirements for certification;

21 (6) A fee schedule to cover direct and indirect costs to
22 administer the act, including, but not limited to, system
23 registration, application for certification, examination, and
24 renewal, late fees for renewal, temporary, provisional, and
25 hardship certifications, and fees for continuing education classes
26 offered or approved by the department;

27 (7) Procedures for the registration of private onsite

1 wastewater treatment systems to be constructed, reconstructed,
2 altered, modified, or inspected by professionals certified under
3 the act; and

4 (8) Requiring that all private onsite wastewater
5 treatment system siting, layout, construction, reconstruction,
6 alteration, modification, repair, inspection, or pumping be
7 performed by certified professionals in accordance with the act,
8 rules and regulations adopted under the act, and other rules and
9 regulations adopted and promulgated by the council.

10 Sec. 13. (1) Beginning January 1, 2004, a private onsite
11 wastewater treatment system shall not be sited, laid out,
12 constructed, reconstructed, altered, modified, repaired, inspected,
13 or pumped unless the siting, layout, construction, reconstruction,
14 alteration, modification, repair, inspection, or pumping is carried
15 out or supervised by either a certified professional as required by
16 the Private Onsite Wastewater Treatment System Contractors
17 Certification and System Registration Act or a professional
18 engineer licensed in Nebraska.

19 (2) The department shall issue a temporary provisional
20 certificate which shall satisfy the requirements of subsection (1)
21 of this section until December 31, 2005, to an individual who
22 applies to the department and includes with the application (a) a
23 fee of three hundred dollars and (b) a properly executed and sworn
24 affidavit stating that the applicant was engaged in activity
25 relating to the siting, layout, construction, reconstruction,
26 alteration, modification, repair, inspection, or pumping of a
27 private onsite wastewater treatment system for at least twelve

1 months preceding the effective date of this act. The affidavit
2 shall specify the activity or activities listed in this subsection
3 in which the applicant was engaged during such time.

4 (3) All temporary provisional certificates issued
5 pursuant to subsection (2) of this section shall be subject to all
6 administrative and enforcement authority of the department under
7 the act and any rules and regulations relating to private onsite
8 wastewater treatment systems adopted and promulgated by the council
9 under the Environmental Protection Act.

10 (4) All temporary provisional certificates issued under
11 subsection (2) of this section shall expire on December 31, 2005.
12 Any individual holding a temporary provisional certificate wishing
13 to become a certified professional under the Private Onsite
14 Wastewater Treatment System Contractors Certification and System
15 Registration Act shall before such date meet the requirements for
16 such certification contained in the rules and regulations of the
17 council adopted and promulgated pursuant to section 12 of this act.

18 Sec. 14. The director may revoke, suspend, or refuse to
19 grant or renew a certificate issued pursuant to the Private Onsite
20 Wastewater Treatment System Contractors Certification and System
21 Registration Act, following opportunity for hearing, upon any
22 reasonable ground, including, but not limited to, the following:

23 (1) The certificate holder has engaged in fraud or deception; (2)
24 the certificate holder has failed to meet the requirements of the
25 act, the Environmental Protection Act, or rules and regulations of
26 the council; (3) the certificate holder is unable to properly
27 perform duties required by the Private Onsite Wastewater Treatment

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1 System Contractors Certification and System Registration Act; (4)
2 the certificate holder has failed to maintain the minimum
3 requirements of a certificate holder under the act; (5) the
4 certificate holder has failed to demonstrate the required
5 continuing education proficiency under the act; or (6) the
6 certificate holder has failed to perform any other requirements of
7 a certificate holder in accordance with the act or the rules and
8 regulations adopted under the act.

9 Sec. 15. The Private Onsite Wastewater Treatment System
10 Cash Fund is created. Fees collected pursuant to the Private
11 Onsite Wastewater Treatment System Contractors Certification and
12 System Registration Act shall be remitted to the State Treasurer
13 for credit to the fund. The fund shall be administered by the
14 department. Any money in the fund available for investment shall
15 be invested by the state investment officer pursuant to the
16 Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 Sec. 16. The requirements of sections 81-1506 to 81-1511
19 shall apply to certified professionals.

20 Sec. 17. The Private Onsite Wastewater Treatment System
21 Contractors Certification and System Registration Act does not
22 apply to public power districts, public irrigation districts, or
23 public power and irrigation districts organized under Chapter 70,
24 article 6.

25 Sec. 18. Any person violating any provision of the
26 Private Onsite Wastewater Treatment System Contractors
27 Certification and System Registration Act or rules and regulations

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1 adopted and promulgated pursuant to the act shall be subject to a
2 civil penalty of not more than ten thousand dollars for each such
3 violation. In the case of a continuing violation, each day shall
4 constitute a separate violation.

5 Sec. 19. Section 81-3453, Revised Statutes Supplement,
6 2002, is amended to read:

7 81-3453. The provisions of the Engineers and Architects
8 Regulation Act regulating the practice of engineering do not apply
9 to the following activities:

10 (1) The construction, remodeling, alteration, or
11 renovation of (a) a detached single-family through four-family
12 dwelling of less than five thousand square feet above grade
13 finished space or (b) a one-story commercial or industrial building
14 or structure of less than five thousand square feet above grade
15 finished space which does not exceed thirty feet in height unless
16 such building or structure, or the remodeling or repairing thereof,
17 provides for the employment, housing, or assembly of twenty or more
18 persons. Any detached or attached sheds, storage buildings, and
19 garages incidental to the dwelling are not included in the
20 tabulation of finished space;

21 (2) The construction, remodeling, alteration, or
22 renovation of farm buildings, including barns, silos, sheds, or
23 housing for farm equipment and machinery, livestock, poultry, or
24 storage and if the structures are designed to be occupied by no
25 more than twenty persons;

26 (3) Any public works project with contemplated
27 expenditures for the completed project that do not exceed eighty

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1 thousand dollars;

2 (4) Any alteration, renovation, or remodeling of a
3 building if the alteration, renovation, or remodeling does not
4 affect architectural or engineering safety features of the
5 building;

6 (5) The teaching, including research and service, of
7 engineering subjects in a college or university offering an
8 Accrediting Board for Engineering and Technology accredited
9 engineering curriculum of four years or more;

10 (6) The act does not prevent a public service provider or
11 an organization who employs a design professional from performing
12 professional services for itself;

13 (7) The practice of any other certified trade or legally
14 recognized profession;

15 (8) The offer to practice engineering by a person not a
16 resident of and having no established place of business in this
17 state if the person is legally qualified by licensure to practice
18 engineering in his or her own state or country. The person shall
19 make application to the board in writing and after payment of a fee
20 established by the board may be granted a temporary permit for a
21 definite period of time not to exceed one year to do a specific
22 job. No right to practice engineering accrues to such applicant
23 with respect to any other work not set forth in the permit;

24 (9) The work of an employee or a subordinate of a person
25 holding a certificate of licensure under the act or an employee of
26 a person practicing lawfully under subdivision (8) of this section
27 if the work is done under the direct supervision of a person

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1 holding a certificate of licensure or a person practicing lawfully
2 under such subdivision;

3 (10) Those services ordinarily performed by subordinates
4 under direct supervision of a professional engineer or those
5 commonly designated as locomotive, stationary, marine operating
6 engineers, power plant operating engineers, or manufacturers who
7 supervise the operation of or operate machinery or equipment or who
8 supervise construction within their own plant;

9 (11) Financial institutions making disbursements of funds
10 in connection with construction projects;

11 (12) Earthmoving and related work associated with soil
12 and water conservation practices performed on farmland or any land
13 owned by a political subdivision that is not subject to a permit
14 from the Department of Natural Resources or for work related to
15 livestock waste facilities that are not subject to a permit by the
16 Department of Environmental Quality;

17 (13) The work of employees and agents of a political
18 subdivision or a nonprofit entity organized for the purpose of
19 furnishing electrical service performing, in accordance with other
20 requirements of law, their customary duties in the administration
21 and enforcement of codes, permit programs, and land-use regulations
22 and their customary duties in utility and public works
23 construction, operation, and maintenance;

24 (14) Work performed exclusively in the exploration for
25 and development of energy resources and base, precious, and
26 nonprecious minerals, including sand, gravel, and aggregate, which
27 does not have a substantial impact upon public health, safety, and

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1 welfare, as determined by the board, or require the submission of
2 reports or documents to public agencies;

3 (15) The construction of water wells as defined in
4 section 46-1212, the installation of pumps and pumping equipment
5 into water wells, and the decommissioning of water wells, unless
6 such construction, installation, or decommissioning is required by
7 the owner thereof to be designed or supervised by an engineer or
8 unless legal requirements are imposed upon the owner of a water
9 well as a part of a public water supply; and

10 (16) Work performed in the exploration, development, and
11 production of oil and gas or before the Nebraska Oil and Gas
12 Conservation Commission; and

13 (17) Siting, layout, construction, and reconstruction of
14 a private onsite wastewater treatment system with a maximum flow
15 from the facility of one thousand gallons of domestic wastewater
16 per day if such system meets all of the conditions required
17 pursuant to the Private Onsite Wastewater Treatment System
18 Contractors Certification and System Registration Act unless the
19 siting, layout, construction, or reconstruction by an engineer is
20 required by the Department of Environmental Quality, mandated by
21 law or rules and regulations imposed upon the owner of the system,
22 or required by the owner.

23 Sec. 20. Original section 81-3453, Revised Statutes
24 Supplement, 2002, is repealed."

25 2. On page 1, line 4, strike "for".